One hesitates to call attention to these defects, if such they are, in so good a piece of work. Mistakes there may be, so there are in all books, and fewer in this, it may be, than in many, if not than in most.

It is understood that the earlier editions had found many friends in the profession, and this edition, should, by reason of its more thorough discussion and wider citation of authority, increase the number. One may not be surprised if it is found to be even more popular with trial lawyers than some works giving greater evidence of scholarship. This because of the fact that its aim, as indicated, is to state the law as it is without the risk of obscurity which might come to the careless reader with the added discussion of the historical development and suggested betterment of the law. It will be too much to expect that it will supplant some works now before the profession with the courts of last resort of the country, with whom, there is desired in greater measure than with the trial lawyer, the historical and more critical discussion of rules they are called upon to apply. The very nature of their task requires this.

Mechanically the book is all that could be wished. Printed on thin paper the volumes are convenient to handle and the typography is excellent.

V. H. L.

THE VALIDITY OF RATE REGULATIONS: STATE AND FEDERAL, by Robert P. Reeder, of the Philadelphia Bar. Philadelphia: T. & J. W. Johnson Co. 1914; pp. xv, 440.

The book admits of a division into two parts. Part one might well be described as a critical examination of the decisions of the courts, especially of the Supreme Court of the United States touching matters involving the fifth and fourteenth amendments to the Constitution of the United States. Part two, beginning with page 154, is a brief statement of some of the principles governing the making of rates for common carriers, especially those engaged in interstate business. The first part is certainly not a statement of what the law is, but rather of what, in the opinion of the author, it should be, with a discussion and criticism of what the courts have declared that it is. For illustrations see especially sections 62ff, 71ff, 86ff, 112ff. The author seems to feel that the courts, in passing upon statutes enacted by Congress, have a right of review only of such matters as are expressly referred to in the Federal constitution, and that in so far as they have based any of their decisions on legislative enactments upon abstract principles of right, natural justice, or any principles not expressly touched upon by the Constitution, they have usurped the province of the Legislature. It might seem that it is now too late for fruitful discussion, especially in a book that may be supposed to be offered as a text, of principles that have been regarded as settled by a long line of decisions, but the author, in section 132, tells us that the past course of the courts has resulted in such a "tangled web of inconsistent decisions, which show every sign of becoming more and more tangled as time goes on," and accordingly he implies that it is desirable, and it may be

assumed that he feels that it is hopeful, at this date to try to bring the courts back to their proper sphere.

It may well be that the Fathers who made the Constitution feared a strong central government, and that they had much more confidence in the legislative branch than have we, especially after the legislative history of the early years of the government, but in view of the development of governmental principles, and especially because of the extent to which the idea of judicial review has interwoven itself into our political fabric, it seems useless to try to make out at this late day that due process of law and the law of the land are, or ought to be, what they were in Magna Charta, or under the English system with the supremacy of Parliament.

However, the discussion of due process of law, and the comparison of the fifth amendment and the fourteenth amendment to the Constitution are interesting and suggestive; the author follows largely the line of inquiry pursued by Mr. E. S. Corwin in 9 Michigan Law Review 104, and in other articles. The assumption that the Legislature is better fitted than the judicial branch of the government to adapt laws to our changing needs will hardly meet with universal favor at the present time, although it is recognized that there is a place for each, and that each has a part to play in the continuous development of legal ideas and rules. The courts might well have hesitated to enter the door they opened in C. M. & St. P. Ry. v. Minnesota. They are ill fitted for the valuation tasks thereby made necessary, but it is not clear that the legislative machinery is better suited than the judicial for such a work, and both courts and legislatures must employ and be guided by experts and commissions. Of this the present relation between the Federal Courts and the Interstate Commerce Commission affords illustration. The author would leave this work largely with the legislature, acting with administrative organs of carefully restricted powers.

Part two, beginning with section 154, is not so critical. The author adopts the reproduction-less-depreciation theory of valuation of railroads as a basis for fixing rates, and disapproves of considering other elements suggested by Justice Harlan in the case of Smyth v. Ames. He, in common with all others who advocate this theory of valuation, admits that some modification is necessary; for exemple, in the case of terminal properties in the great cities, which have enormously increased in value by reason of the development of the surrounding property, and which in some cases are so large a proportion of the total value of the lines that to base rates upon these terminal values would result in permitting the railroads to charge a continually increasing rate for service. He also notices the difficulties in connection with rights of way that have been donated. However, it is believed that the prevailing view is and must be that no one theory of valuation can be relied on to the exclusion of all others in arriving at a just result in all cases. The reproduction theory in the hard times of the nineties seemed very favorable to the public. In the good times and high prices following the public might well view with dismay the results of using that theory in valuing the appreciating property of public utility companies.

On the whole the book contains a very useful collection of authorities, among them very recent cases, and a very suggestive presentation of questions that need to be thoroughly understood by the courts and the profession in dealing with the constitutional questions involved in valuation of property and the making of rates for the railroads and other public utilities.

E. C. G.

A TREATISE ON THE LAW OF SURETYSHIP AND GUARANTY, by Darius H. Pingree, LL.D., author of treatises on Chattel Mortgages, Real Estate Mortgages and Real Property, Second Edition by Howard C. Joyce, Albany, N. Y.: Matthew Bender & Co., 1913.

The first edition of this work appeared in 1901. It was and still remains a simple elementary treatise on the subject of suretyship and guaranty, without pretense to elaboration, a treatise which will appeal to the student as a plain and concise statement of the principles applicable to the subject and to the practitioner, through the medium of the cases cited and the author's statement of the principles involved, as a good basis for exhaustive examination of particular questions arising out of the general subject. The second edition of the work appeared last year under the editorship of Mr. Howard C. JOYCE, who follows the general plan and scope of the first edition. The general principles of the law of suretyship have been settled and acquiesced in for many years. Whatever departure from, modifications of, changes in or exception to the settled law of the subject has been made in recent years is due to the presence in the field of the surety company, an assurer authorized by law to make contracts of assurance for a consideration as nearly commensurate with the risk assumed as experience had shown to be reasonable. Formerly the courts had to do with the gratuitous surety. It was natural that the courts should regard such a surety as a favorite of the law, reasonable that they should declare his obligation *strictissimi juris,* proper that they should hold that his engagement should not be enlarged by constructions, that nothing should be implied against him. But in recent years courts have been dealing with the compensated surety so-called. Since the first edition of this work appeared there has been an enormous increase in the business of furnishing security through the agency of the compensated surety. In all the more important contracts of assurance in recent years the surety company has been the assurer, not the individual gratuitous surety. It is this phase of the subject that is of present importance. The editor recognizes this, and states in his preface: "This new phase of the subject has been fully treated by the editor both as regards the contract so entered into and as affected by legislative act." It will not be surprising if the reader of this new edition will decline to accept the editor's statement as conclusive when he finds that the editor has specially devoted only a dozen or so pages to a consideration of the law relating to surety companies.

R. E. B.